

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MS. LEVONE BUTTS, Individually	:	CIVIL ACTION
and as Executrix of the Estate of	:	NO. 2:07-cv-1657
GLEN RAY BUTTS, Deceased	:	
Plaintiff	:	
	:	
v.	:	
	:	
LLOYD WEISZ and GEORGIA WEISZ	:	JURY TRIAL DEMANDED
Defendants	:	

MOTION FOR PARTIAL SUMMARY JUDGMENT
ON THE ISSUES OF (1) EXISTENCE OF
A DANGEROUS CONDITION AND (2) CAUSATION

Plaintiff Levone Butts, individually and as personal representative of the estate of her late husband, Glen Ray Butts, through her attorney, Eric G. Zajac, Esquire, ZAJAC & ARIAS, L.L.C., offers the following Motion for Partial Summary Judgment:

1. This personal injury action has been filed pursuant to Pennsylvania's Wrongful Death Act, the Survival Act, and under the common law theory of negligent infliction of emotional distress as recognized in Sinn v. Burd, 486 Pa. 146, 404 A.2d 672 (1979) and its progeny.
2. Mr. Glen Butts died on August 21, 2006 after falling down unlit basement steps.
3. Mr. Butts is survived by his wife, Levone Butts.
4. All parties and all experts have been deposed and discovery has been completed.

5. As a result of said discovery, there have emerged certain undisputable facts. See Statement of Undisputable Material Facts, filed separately.
6. This motion is filed because:
 - a. There is no triable issue of material fact regarding whether a dangerous condition existed in the home of the Defendants, namely, a dimly lit passage-way from the kitchen to the basement stairwell, where there was no door at the top of the stairwell, coupled with a shaded step-down from the kitchen near the stairwell, and an atypically-placed light switch controlling the overhead lights in the stairway;
 - b. There is no triable issue of material fact regarding the Defendants being on at least constructive notice of the dangers; and
 - c. There is no triable issue of material fact regarding the fall down the basement steps being the factual cause of Mr. Butts's death.
7. Taking into account these undisputable material facts, Plaintiff is entitled to partial summary judgment on the issues of liability and causation, and this case should proceed solely on the issue of damages.
8. Plaintiff incorporates by reference the attached Memorandum of Law.

9. Based on the foregoing, and taking into account the undisputable material facts, Plaintiff is entitled to partial summary judgment on the issues of liability and causation, and this case should proceed solely on the issue of damages.

Respectfully Submitted,



BY: _____
Eric G. Zajac, Esquire
ZAJAC & ARIAS, LLC
Attorney for Plaintiff

DATED: July 13, 2009